

TO: The Honorable Board of Supervisors

FROM: F. Craig Meadows, County Administrator
L. Carol Edmonds, Deputy County Administrator

DATE: August 11, 2014

SUBJECT: AGENDA REPORT

I. CALL TO ORDER

II. INTO CLOSED MEETING

BE IT RESOLVED, The Board of Supervisors hereby enters into Closed Meeting for the purpose of discussing the following:

Section 2.2-3711 (5) Discussion Concerning a Prospective Business or Industry or the Expansion of an Existing Business or Industry Where No Previous Announcement Has Been Made of the Business or Industry's Interest in Locating or Expanding Its Facilities in the Community.

1. 2014-018

- (3) Discussion or Consideration of the Acquisition of Real Property for Public Purpose, or of the Disposition of Publicly Held Real Property, Where Discussion in an Open Meeting Would Adversely Affect the Bargaining Position or Negotiating Strategy of the Public Body

1. Old Shawsville Elementary School Property

- (7) Consultation with Legal Counsel and Briefings from Staff Members or Consultants Pertaining to Actual or Probable Litigation, Where Such Consultation or Briefing in Open Meeting Would Adversely Affect the Negotiating or Litigating Posture of the Public Body; and Consultation with Legal Counsel Employed or Retained by a Public Body Regarding Specific Legal Matters Requiring Provision of Legal Advice by Such Counsel

1. Old Sourwood Road

- (1) Discussion, Consideration or Interviews of Prospective Candidates for Employment; Assignment, Appointment, Promotion, Performance, Demotion, Salaries, Disciplining or Resignation of Specific Officers, Appointees or Employees of Any Public Body
 1. Adjustment and Appeals Board
 2. Board of Equalization
 3. Community Services Board

III. OUT OF CLOSED MEETING

BE IT RESOLVED, The Board of Supervisors ends their Closed Meeting to return to Regular Session.

IV. CERTIFICATION OF CLOSED MEETING

WHEREAS, The Board of Supervisors of Montgomery County has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such Closed Meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED, That the Board of Supervisors of Montgomery County, Virginia hereby certifies that to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion conveying the closed meeting were heard, discussed or considered by the Board.

VOTE

AYES

NAYS

ABSENT DURING VOTE

ABSENT DURING MEETING

V. INVOCATION

VI. PLEDGE OF ALLEGIANCE

VII. DELEGATIONS

- A. New River Health District – Virginia Department of Health**
Molly O'Dell, Health Director, will make a presentation on Lyme Disease in Montgomery County.
- B. Virginia Department of Transportation**
David Clarke, VDOT, will provide an update on road projects/issues in Montgomery County.

VIII. PUBLIC ADDRESS

IX. ADDENDUM

X. CONSENT AGENDA

XI. OLD BUSINESS

- A. SUBJECT: ORDINANCE AMENDING CHAPTER 2**

**ORD-FY-15-
AN ORDINANCE AMENDING CHAPTER 2, ENTITLED ADMINISTRATION
OF THE CODE OF THE COUNTY OF MONTGOMERY, VIRGINIA
BY AMENDING SECTION 2-32 AND 2-33 TO ALLOW PERSONS OWNING
OR LEASING A MOTOR VEHICLE WHO PREVIOUSLY FILED A
PERSONAL PROPERTY TAX RETURN TO NOT BE REQUIRED
TO FILE ANOTHER RETURN IF NO CHANGE IN STATUS AND
BY ESTABLISHING A MONETARY CIVIL PENALTY INSTEAD
OF A CRIMINAL VIOLATION FOR FAILING TO FILE A RETURN**

BE IT ORDAINED, By the Board of Supervisors of the County of Montgomery, Virginia, that Chapter 2, entitled Administration, Section 2-32 and 2-33 of the Code of the County of Montgomery, Virginia shall be amended and reordained as follows:

Sec. 2-32. Filing of personal property tax returns—Generally.

- (a) Every person in the county subject by law to tangible personal property taxation shall file a tangible personal property tax return with the commissioner of the revenue of the county on forms furnished by such office on or before May 1 of each calendar year with the exception of motor vehicles and trailers that acquired a situs within the county or are transferred to a new owner in the county after January 1, for which the deadline shall be sixty (60) days following the date of such transfer or acquisition of situs in the county. Any person failing to file such return on or before the due date shall incur a penalty thereon of five (5) percent of the tax assessable on such return or ten dollars (\$10.00), whichever is greater, which shall be added to the amount of taxes or levies due from such taxpayer and which, when collected by the treasurer, shall be accounted for in his settlements; provided, however, that the penalty shall in no case exceed the amount of tax assessable.
- (b) Notwithstanding the filing requirements described above, any person owning or leasing a motor vehicle, who has previously filed a personal property tax return with the commissioner of revenue for that vehicle, and for which vehicle there has been no change in the situs or status, shall not be required to file another personal property tax return on such vehicle, until and if such situs or status changes.

For the purpose of this section, the term "change in status" shall mean one (1) or more of the following:

- (1) A change occurs in the name or address of the person or persons, or entity, owning or leasing such tangible personal property.
 - (2) A change occurs in the taxable situs of tangible personal property.
 - (3) Any action which causes personal property to acquire situs in the county occurs, for which no personal property tax return has been filed by the owner.
 - (4) Any change affecting the assessment or levy of the personal property tax occurs for which a tax return has been previously filed, or the use of a personal vehicle has changed to business use, thereby affecting application of the Personal Property Tax Relief Act.
- (c) The commissioner of revenue may grant extensions of time, not to exceed ninety (90) days, for filing returns on tangible personal property, machinery and tools and merchants' capital whenever good cause exists. The commissioner shall keep a record of every such extension. If any taxpayer who has been granted an extension of time for filing his return fails to file his return within the extended time, his case shall be treated the same as if no extension had been granted.

Penalty for failure to file a return shall not be imposed if such failure was not the fault of the taxpayer. The treasurer shall make such determinations of fault relating exclusively to failure to pay a tax and the commissioner of revenue shall make such determinations relating exclusively to failure to file a return.

- (d) ~~(b)~~ All taxes or levies on tangible personal property in the county shall be due and payable during the year for which the same are assessed, and shall be paid to the treasurer of the county on or before December 5 of such year.
- (e) ~~(c)~~ All taxes or levies on real estate in the county shall be due and payable during the year for which the same are assessed, and shall be paid to the treasurer of the county in two (2) approximately equal installments as follows: one-half on or before June 5 and one-half on or before December 5 of such year.

Sec. 2-33. Failure to file; late payment; interest; etc.

A penalty is hereby imposed and shall be exacted, not exceeding ten (10) percent of the tax past due on such property, for nonpayment of taxes in time; provided, however, that in no case shall the penalty exceed the amount of tax due. The penalty for failure to pay any tax may be assessed on the day after such is due. Except as may be provided by law, no penalty shall be imposed for any assessment made later than two (2) weeks prior to the day on which the taxes are due, if such assessment is made thereafter through the fault of a local official and if such assessment is paid within two (2) weeks after the notice thereof is mailed.

Interest on delinquent taxes is hereby imposed and shall be exacted at the maximum rate authorized by state law. Interest shall commence on the first day of the month following the month in which such taxes are due to be paid.

~~Any person who intentionally fails to file the return provided for in Section 2-32 shall be deemed guilty of a class 3 misdemeanor.~~

ISSUE/PURPOSE:

Amend Chapter 2, entitled Administration, Section 2-32 and 2-33 of the Code of the County of Montgomery, Virginia.

JUSTIFICATION:

To allow persons owning or leasing a motor vehicle who previously filed a personal property tax return to not be required to file another return if no change in status and by establishing a monetary civil penalty instead of a criminal violation for failing to file a return.

XII. NEW BUSINESS

**A. SUBJECT: SCHOOL OPERATING FUND – FY 14 YEAR
END ENCUMBRANCE CARRYOVER**

**A-FY-15-
SCHOOL OPERATING FUND
FY 14 YEAR-END ENCUMBRANCE CARRYOVER**

BE IT RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the General Fund is granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2015, for the function and in the amount as follows:

451200 Transfer to School Operating Fund	\$1,234,356
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The source of funds for the foregoing appropriation is as follows:

451203 Undesignated Fund Balance	\$1,234,356
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BE IT FURTHER RESOLVED, By the Board of Supervisors of Montgomery County, Virginia that the School Operating Fund was granted an appropriation in addition to the annual appropriation for the fiscal year ending June 30, 2015, for the function and in the amount as follows:

School Operating

610000 Instruction	\$ 11,602
620000 Admin, Attend, & Health	\$ 76,500
640000 Operation and Maintenance	<u>\$1,146,254</u>
Total Funds	\$1,234,356

The source of funds for the foregoing appropriation is as follows:

Revenue Account:

451100 Transfer from General Fund	\$1,234,356
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Said resolution re-appropriates monies supporting the balances of outstanding purchase orders for the schools.

ISSUE/PURPOSE: Outstanding purchase orders for the MCPS.

JUSTIFICATION:

This resolution re-appropriates monies supporting balances of outstanding purchase orders that had yet to be liquidated before year-end of 2014. The School Board requests the balances be re-appropriated to complete existing projects as approved by the school board. (TAB C)

B. SUBJECT:

**POLICY ON BOARD ELECTRONIC
PARTICIPATION IN BOARD MEETINGS**

R-FY-15-

**RESOLUTION ESTABLISHING A WRITTEN POLICY
FOR PARTICIPATION IN BOARD OF SUPERVISORS MEETINGS
THROUGH ELECTRIC COMMUNICATION FROM A REMOTE LOCATION**

WHEREAS, Section 2.2-3708.1 of the Code of Virginia, 1950, as amended, permits members of the Board of Supervisors to participate in a meeting of the Board through electronic communication means from a remote location in certain situations; and

WHEREAS, The Board of Supervisors must first adopt a written policy allowing for and governing the participation of its members in a meeting of the Board through electronic means from a remote location.

NOW, THEREFORE, BE IT RESOLVED, By the Board of Supervisors of the County of Montgomery, Virginia, that the Board of Supervisors hereby adopts the following policy to govern when Board of Supervisor members may electronically participate in a Board of Supervisors meeting remotely:

1. On or before the day of a Board of Supervisors meeting the requesting Member shall notify the Chair or the Vice-Chair, if the Chair is out of town, that the Member would like to participate remotely because the Member is unable to attend the meeting due to an emergency, a personal matter, or due to a temporary or permanent disability or other medical condition that prevents the Member's physical attendance. The Member must identify with specificity the nature of the emergency, personal matter or disability.
2. A quorum of the Board of Supervisors must be physically assembled at the primary or central meeting location. The Board of Supervisors members present must vote to agree to the participation. The decision shall be based solely on the criteria in this policy without any regard to the identity of the Member requesting participation or matters that will be considered or voted on during the meeting. The Clerk shall record in the Board of

Supervisors minutes the vote of the Board and the specific nature of the emergency, personal matter or disability and the remote location from which the absent Member participated. If the absent Member's remote participation is disapproved by a majority of the Board because such participation would violate this policy, such disapproval shall be recorded in the Board's minutes.

3. Member participation in Board of Supervisors meetings through electronic communication from a remote location shall be limited in each calendar year to two (2) meetings.
4. Member participation remotely shall only be permitted if the Board of Supervisors is able to arrange for the voice of the remote participating Board Member to be heard by all persons in attendance at the primary or central meeting location.

ISSUE/PURPOSE: Adopt a policy governing the participation of its members in a meeting of the Board through electronic means from a remote location.

JUSTIFICATION: Section 2.2-3708.1 of the Code of Virginia, 1950, as amended, permits members of the Board of Supervisors to participate in a meeting of the Board through electronic communication means from a remote location in certain situations. This resolution adopts a policy to govern the electronic participation.

XIII. INTO WORK SESSION

BE IT RESOLVED, The Board of Supervisors hereby enters into Work Session for the purpose of discussing the following:

1. Maternity/Paternity Benefits
2. Sponsorship Policy (TAB D)

XIV. OUT OF WORK SESSION

BE IT RESOLVED, The Board of Supervisors ends their Work Session to return to Regular Session.

XV. COUNTY ATTORNEY'S REPORT

XVI. COUNTY ADMINISTRATOR'S REPORT

XVII. BOARD MEMBERS' REPORT

1. Supervisor Tuck
2. Supervisor Gabriele
3. Supervisor King
4. Supervisor Creed
5. Supervisor Perkins
6. Supervisor Biggs
7. Supervisor Brown

XVIII. OTHER BUSINESS

XIX. ADJOURNMENT

FUTURE MEETINGS

Adjourned Meeting
Monday, August 25, 2014
6:00 p.m. Closed Meeting
7:15 p.m. Regular Meeting

Regular Meeting
Monday, September 8, 2014
6:00 p.m. Closed Meeting
7:15 p.m. Regular Meeting

Adjourned Meeting
Monday, September 22, 2014
6:00 p.m. Closed Meeting
7:15 p.m. Regular Meeting

Special Joint Meeting
with the School Board
Tuesday, September 30, 2014
7:00 p.m.